

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 22367 of 2007

Dated: 25.10.2007

Between:

Potluri Kesava Rao

... Petitioner

AND

The Regional Transport Officer (Asst. Secretary),
Regional Transport Authority,
Gudivada, Krishna District
& another.

... Respondents

Counsel for the petitioner : Sri Rajnikanth Jwala

Counsel for the respondents : Assistant Government Pleader for
Transport.

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 22367 of 2007

ORDER:-

This writ petition is filed for a writ of mandamus to declare the seizure of the contract carriage bus bearing registration No.AP 16Y 6479 belonging to the petitioner under vehicle check report dated 12.10.2007 of respondent No.2, as illegal and arbitrary.

After taking time for getting instructions, learned Assistant Government Pleader for Transport has produced a note containing instructions sent to him by respondent No.1 which shows that at the time of check, the driver failed to produce registration certificate, driving licence and proof of payment of tax for the quarter ending 31.12.2007. It is also mentioned in the note that the petitioner will be liable for payment of tax at Rs.2,625/- per seat calling for 34 seats which costs to Rs.89,250/- and a compounding fee of Rs.6,700/-.

Heard learned counsel for the petitioner and the learned Assistant Government Pleader for Transport.

A perusal of the check report shows that on 12.10.2007 at 9-00 a.m. the subject vehicle was stopped and checked while proceedings to Mankonda with 3 "company persons" and the following documents were not produced:

- 1) Registration Certificate
- 2) Driving Licence

- 3) Permit, and
- 4) Payment of tax for quarter ending 31.12.2007

The vehicle was therefore seized under Section 8 of the Andhra Pradesh Motor Vehicles Taxation Act, 1988 (for short, 'the Act').

It is admitted by the learned Government Pleader that so far no demand for payment is made under the provisions of the Act. Since in the absence of any demand raised, it is not reasonable to insist that the petitioner shall pay a part of liability, which may be fastened on him in future. If the vehicle is detained till the proceedings under the Act are completed, its condition would get deteriorated.

In the above circumstances, the writ petition is disposed of with the following directions:

- 1) Respondent No.1 shall release the vehicle bearing registration No.AP 16Y 6479 to the petitioner subject to his producing before him a copy of the Registration Certificate and Driving Licence of the driver, who was found driving the bus at the time of seizure.
- 2) It shall be open to the respondents to initiate proceedings under the provisions of the Act in the event it was found that the petitioner has violated the provisions of the Act and can make appropriate demand after following the procedure prescribed therein.
- 3) The petitioner shall furnish an undertaking to respondent No.1 as a condition for release of the vehicle to the effect that he will not alienate or in any way transfer the vehicle to third parties till the conclusion of the proceedings by the respondents.

As a sequel to disposal of the writ petition,
WPMP.No.29002 of 2007 filed by the petitioner for interim relief is
disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

Date: 25.10.2007
ES